

**AN ORDINANCE OF THE CITY OF SAN JOSE AMENDING TITLE 20 OF THE SAN JOSE MUNICIPAL CODE BY AMENDING SECTION 20.20.200 OF CHAPTER 20.20, SECTION 20.30.200 OF CHAPTER 20.30, SECTION 20.40.200 OF CHAPTER 20.40, SECTION 20.50.200 OF CHAPTER 20.50, AND SECTIONS 20.85.010, 20.85.020 AND 20.85.030 OF CHAPTER 20.85, ALL TO AMEND THE HEIGHT LIMITATIONS IN AIRPORT INFLUENCE AREAS, TO FURTHER IMPLEMENT THE HEIGHT POLICIES SET FORTH WITHIN THE ENVISION SAN JOSE 2040 GENERAL PLAN, AND TO MAKE OTHER TECHNICAL, NONSUBSTANTIVE OR FORMATTING CHANGES WITHIN THOSE SECTIONS OF TITLE 20**

**WHEREAS**, pursuant to the provisions and requirements of the California Environmental Quality Act of 1970, together with related State CEQA Guidelines and Title 21 of the San José Municipal Code (collectively, "CEQA"), the City has certified that certain Final Program Environmental Impact Report for the Envision San José 2040 General Plan (the "Final EIR") and the City Council adopted its related Resolution No. 76041 in connection therewith; and

**WHEREAS**, more specifically pursuant to Section 15168 of the State CEQA Guidelines, the City of San José has determined that no new effects would occur from and no new mitigation measures would be required for the adoption of this Ordinance and that adoption of this Ordinance is within the scope of and in furtherance of the Envision San José 2040 General Plan, taken together with the Final EIR and related Resolution No. 76041; and

**WHEREAS**, the City Council of the City of San José is the decision-making body for this Ordinance; and

**WHEREAS**, this Council has reviewed and considered the Final EIR and related Resolution No. 76041 prior to taking any approval actions on this Ordinance.

**NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF SAN JOSE:**

**SECTION 1.** Section 20.20.200 of Chapter 20.20 of Title 20 of the San José Municipal Code is hereby amended to read in its entirety as follows:

**20.20.200 Development Standards**

All development in the OS Open Space and A Agricultural Districts shall conform to the development regulations set forth below in Table 20-40.

| <b>Table 20-40<br/>OS Open Space and A Agricultural District<br/>Development Standards</b> |   |   |
|--|---|---|
| <b>Regulations</b>   | <b>Zoning District</b>                    |   |
|  | <b>OS</b>                                 | <b>A</b>                                  |
| Minimum Lot  | 20 acres                                  | 20 acres                                  |
| Setbacks (feet)  |   |   |
| From abutting streets and highways   | 50  | 50  |
| From abutting property zoned or used for residential purposes                              | 300                                       | 300                                       |
| From abutting property zoned or used for other than residential purposes                   | 50  | 50  |
| Maximum Height <u>(Note 1)</u>   | 35 <u>or established in Chapter 20.85</u> | 35 <u>or established in Chapter 20.85</u> |
| Maximum Floor Area Ratio   | none                                      | .80                                       |
| Parking  | See Chapter 20.90                         | See Chapter 20.90                         |

**Notes:**

1. An alternative Maximum Height may be established as described in Chapter 20.85. Where an alternative maximum height restriction has been established as described in Chapter 20.85, that regulation described in Chapter 20.85 shall govern and control over the provisions of this Section.

**SECTION 2.** Section 20.30.200 of Chapter 20.30 of Title 20 of the San José Municipal Code is hereby amended to read in its entirety as follows:

**20.30.200 Development Standards**

All development in the Residential Zoning Districts shall conform to the development regulations set forth below in Table 20-60.

| <b>Table 20-60<br/>Residential Zoning Districts<br/>Development Standards</b> |   |       |        |        |         |       |   |       |
|---|---|-------|--------|--------|---------|-------|---|-------|
| Regulations   | Zoning District   |       |        |        |         |       |   |       |
|   | R-1-8   | R-1-5 | R-1-2  | R-1-1  | R-1-RR  | R-2   | R-M                                       | R-MH  |
| Minimum Lot Area (square feet or acreage)                                     | 5,445   | 8,000 | 20,000 | 43,560 | 5 acres | 5,445 | 6,000                                     | 6,000 |
| Minimum Setback (feet)  |   |       |        |        |         |       |   |       |
| Front   | 25  | 25    | 30     | 30     | 50      | 20    | 15  | 15    |
| Side, Interior  | 5   | 5     | 15     | 20     | 20      | 5     | 5   | 5     |
| Side, Corner  | 12.5  | 12.5  | 15     | 20     | 30      | 10    | 7.5                                       | 7.5   |
| Rear, Interior  | 20  | 20    | 25     | 25     | 30      | 25    | 25  | 25    |
| Rear, Corner  | 20  | 20    | 25     | 25     | 30      | 25    | 15  | 15    |
| Minimum Driveway Length (feet)  | 23  | 23    | 23     | 23     | 23      |       |   |       |
| Maximum Height (feet) (Notes 1, 2 <u>and 4</u> )                              | 35  | 35    | 35     | 35     | 35      | 35    | 45 <u>or established in Chapter 20.85</u> | 45    |
| Maximum Number of stories (Note 3)  | 2.5   | 2.5   | 2.5    | 2.5    | 2.5     | 2.5   | 3   | 3     |
| Parking   | See Chapter 20.90   |       |        |        |         |       |   |       |
| Floor Area Ratio  | See Part 9 of Chapter 20.100 for Single Family House Permit criteria that may apply |       |        |        |         |       |   |       |

**Notes:**

1. Refer to Part 9 of Chapter 20.100 regarding Single Family House Permit requirements and Section 20.200.510 regarding the definition of “height”.
2. An alternative Maximum Height may be established as described in Chapter 20.85. Where an alternative maximum height restriction has been established as described in Chapter 20.85, that regulation described in Chapter 20.85 shall govern and control over the provisions in this Section.
3. Refer to Section 20.200.120 regarding the definition of “basement”; refer to Section 20.200.120 regarding the definition of “story; and refer to Section 20.200.1220 regarding the definition of “half story”.
4. An alternative Maximum Height may be established as described in Chapter 20.85. Where an alternative maximum height restriction has been established as described in Chapter 20.85, that regulation described in Chapter 20.85 shall govern and control over the provisions of this Section.

**SECTION 3.** Section 20.40.200 of Chapter 20.40 of Title 20 of the San José Municipal Code is hereby amended to read in its entirety as follows:

**20.40.200 Development Standards**

All development in the Commercial Zoning Districts shall conform to the development regulations set forth in Table 20-100.

| <b>Table 20-100<br/>Commercial Zoning Districts<br/>Development Standards</b> |                 |       |       |  |
|---|-----------------|-------|-------|--|
| Regulations   | Zoning District |       |       |  |
|   | CO              | CP    | CN    | CG   |
| Minimum Lot Area<br>(square feet or<br>acreage)                               | 6,000           | 6,000 | 6,000 | 1 acre<br>(none if lot is<br>located in a<br>shopping center<br>with shared<br>access and<br>shared parking<br>among the lots) |

| Minimum Setback (feet)   |   |   |   |   |
|--|---|---|---|---|
| Front  | 15  | no minimum,<br>10 feet<br>maximum   | 15  | 25  |
| Side, Interior   | 5   | None  | none  | none  |
| Side, Corner   | 12.5  | None  | 12.5  | 12.5  |
| Rear, Interior   | 25  | 25  | none  | none  |
| Rear, Corner   | 25  | 25  | none  | none  |
| Maximum Height (feet)<br>[Note 1]  | 35 <u>or</u><br><u>established in</u><br><u>Chapter 20.85</u> | 50 <u>or</u><br><u>established in</u><br><u>Chapter 20.85</u>   | 50 <u>or</u><br><u>established in</u><br><u>Chapter 20.85</u> | 65 <u>or</u><br><u>established in</u><br><u>Chapter 20.85</u> |
| Maximum Individual<br>Occupant Square<br>Footage (square feet)<br>[see Note 2] |   | 2,500/Personal service shop<br><br>5,000/Eating,<br>drinking or<br>entertainment<br>establishment<br><br>15,000/all<br>other uses [see<br>Note 1] |   |   |
| Parking  | See Chapter 20.90   |   |   |   |

**Notes Applicable to Commercial Development Standards:**

1. An alternative Maximum Height may be established as described in Chapter 20.85. Where an alternative maximum height restriction has been established as described in Chapter 20.85, that regulation described in Chapter 20.85 shall govern and control over the provisions of this Section.
2. In the CP Commercial Pedestrian District, lots located wholly within the West San Carlos Street Neighborhood Business District, as indicated on the General Plan Land Use Diagram, shall not be subject to the maximum individual occupant square footage requirements set forth in this Section.

**SECTION 4.** Section 20.50.200 of Chapter 20.50 of Title 20 of the San José Municipal Code is hereby amended to read in its entirety as follows:

## 20.50.200 Development Standards

All development in the Industrial Zoning Districts shall conform to the development regulations set forth below in Table 20-120.

| <b>Table 20-120<br/>Industrial Zoning Districts<br/>Development Standards</b> |                                     |                                     |                                     |                                     |        |
|---|-------------------------------------|-------------------------------------|-------------------------------------|-------------------------------------|--------|
| Regulations   | Zoning District                     |                                     |                                     |                                     |        |
|   | CIC                                 | IP                                  | LI                                  | HI                                  | Notes  |
| Minimum Lot Area (square feet)  | 6,000                               | 10,000                              | 10,000                              | 6,000                               |        |
| Minimum Unit Size for Non-residential Condominiums                            | 4,000                               | Section 20.175.042                  | Section 20.175.042                  | Section 20.175.042                  |        |
| Minimum Setback (feet)  |                                     |                                     |                                     |                                     |        |
| Front   |                                     |                                     |                                     |                                     | Note 1 |
| Building  | 15                                  | 15                                  | 15                                  | 15                                  |        |
| Parking and circulation for passenger vehicles                                | 20                                  | 25                                  | 20                                  | 15                                  |        |
| Parking for trucks & buses  | 40                                  | 40                                  | 30                                  | 15                                  |        |
| Loading docks   | 60 or 100 from residential district | 60 or 100 from residential district | 60 or 100 from residential district | 15 or 100 from residential district |        |
| Side  |                                     |                                     |                                     |                                     | Note 2 |
| Building and Structures   | 0 or 25 from residential district   | 0 or 25 from residential district   | 0 or 25 from residential district   | 0 or 25 from residential district   |        |
| Parking and circulation for passenger vehicles                                | 0 or 25 from residential district   | 0 or 25 from residential district   | 0 or 25 from residential district   | 0 or 25 from residential district   |        |

| <b>Table 20-120<br/>Industrial Zoning Districts<br/>Development Standards</b> |  |  |  |  |        |
|---|--|--|--|--|--------|
| Regulations   | Zoning District                                  |  |  |  |        |
|   | CIC  | IP   | LI   | HI   | Notes  |
| Parking for trucks & buses  | 0 or 25 from residential district                | 0 or 25 from residential district                | 0 or 25 from residential district                | 0 or 25 from residential district                |        |
| Loading docks   | 100 from residential district                    | 60 or 100 from residential district              | 100 from residential district                    | 100 from residential district                    |        |
| Rear  |  |  |  |  | Note 3 |
| Building and Structures   | 0 or 25 from residential district                | 0 or 25 from residential district                | 0 or 25 from residential district                | 0 or 25 from residential district                |        |
| Parking and circulation for passenger vehicles                                | 0 or 25 from residential district                | 0 or 25 from residential district                | 0 or 25 from residential district                | 0 or 25 from residential district                |        |
| Parking for trucks & buses  | 0 or 25 from residential district                | 0 or 25 from residential district                | 0 or 25 from residential district                | 0 or 25 from residential district                |        |
| Loading docks   | 100 from residential district                    | 100 from residential district                    | 100 from residential district                    | 100 from residential district                    |        |
| Maximum Height (feet)   | <del>45</del> 50 or established in Chapter 20.85 | <del>45</del> 50 or established in Chapter 20.85 | <del>45</del> 50 or established in Chapter 20.85 | <del>45</del> 50 or established in Chapter 20.85 | Note 4 |
| Minimum street frontage (feet)  | 60   | 60   | 60   | 60   |        |
| Parking   | See Chapter 20.90                                |  |  |  |        |

**Notes:**

1. "Front" refers to lot boundaries abutting streets, excluding freeways.

2. "Side" refers to lot boundaries not abutting streets or which abut freeways.
3. "Rear" refers to lot boundaries not abutting streets or which abut freeways.
4. An alternative Maximum Height may be established as described in Chapter 20.85. Where an alternative maximum height restriction has been established as described in Chapter 20.85, that regulation described in Chapter 20.85 shall govern and control over the provisions of this Section.

**SECTION 5.** Section 20.85.010 of Chapter 20.85 of Title 20 of the San José Municipal Code is hereby amended to read in its entirety as follows:

**20.85.010 Specific Height Restrictions**

- A. This Chapter sets forth certain area-specific and use-specific height restrictions for development applicable to all Zoning Districts established by Section 20.10.060 and to **P**lanned **D**evelopment districts established by Section 20.10.070.
- B. The purpose of this Chapter is to provide for the public peace, health, safety, and welfare by identifying geographic locations within the City of San José and specific uses for which it is appropriate to establish more specific height restrictions than those provided within the general zoning district standards.
- C. The governing height restriction applicable to a particular site or structure shall be determined in accordance with the following rules and priorities:
  1. For single-family **or mobile-home** residential structures located in a residential zoning district, the height restrictions set forth in Section 20.30.200 shall govern and control the maximum allowed height of those structures.
  2. For properties that are not governed by Subsection 20.85.010.C.1 but that are within a **S**pecific **P**lan area, the height restrictions set forth within that Specific Plan document shall govern and control the maximum allowed heights on those properties.
  3. For properties that are not governed by Subsections 20.85.010.C.1 or 2 but that are within a certain geographic area that is described in Part 2 of this **C**hapter, the height restrictions set forth in said Part 2 shall govern and control the maximum allowed heights on those properties.



4. For those structures that are listed and described in Part 3 of this Chapter that are not governed by Subsections 20.85.010.C.1, 2 or 3, the height restrictions set forth in said Part 3 shall govern and control the maximum allowed height of those structures.
5. For properties or structures not otherwise regulated by the provisions of Section 20.85.010.C.1, 2, 3 or 4, ~~or~~ and for properties located within an Airport Influence Area overlay as identified in the General Plan that are also within the Downtown Zoning Area or within the Downtown Frame, the height restrictions established for the zoning district in which the property or structure is located or is to be located shall govern and control the maximum heights allowed on those properties or of those structures.

**SECTION 6.** Section 20.85.020 of Chapter 20.85 of Title 20 of the San José Municipal Code is hereby amended to read in its entirety as follows:

#### **20.85.020 Geographic Area Height Limitations**

The following geographical areas shall be subject to specific height restrictions as described below:

- A. **Downtown.** For the Downtown Zoning Area defined in Subsection 20.70.010, the maximum allowable height for new buildings and structures shall be ~~as determined through the regulations of the federal aviation administration defined by the airspace requirements of the Norman Y. Mineta San Jose International Airport as determined by the Federal Aviation Administration. under which maximum allowable height varies from approximately one hundred twenty feet (10± stories) to approximately three hundred (315) feet (23± stories) necessary to maintain obstruction free air space around Norman Y. Mineta San Jose International Airport.~~
- B. **Downtown Frame.** In the Downtown Frame area, consisting of the area adjacent to the Downtown and bounded by Taylor Street, 11<sup>th</sup> Street, Keyes Street, Monterey Road, Willow Street, the Union Pacific Railroad line, and the boundaries of the Downtown Zoning Area, the maximum allowable building height is ~~up to~~ one hundred twenty (120) feet in any event.
- C. **Employment Centers.** The following height restrictions consolidate and set forth those height restrictions applicable to certain geographic areas, as described, that were approved and adopted prior to the adoption of the Envision San Jose 2040

General Plan:

1. For the North San José area located to the north and west of Interstate 880, the allowable building height shall be as follows:
  - a. For the portion of North San José within the area bounded by Zanker Road, Montague Expressway, Orchard Drive, Orchard Parkway, the planned extension of Component Drive, the Guadalupe River, Highway 101, Highway 101 and Zanker Road North First Street, the maximum building height shall be defined by the airspace requirements of the Norman Y. Mineta San José International Airport as determined by the Federal Aviation Administration, but shall not ~~to~~ exceed two hundred fifty (250) feet in any event; and
  - b. For the portion of North San José within the area bounded by North Fourth Street, Highway 101, North First Street and the planned extension of Skyport Drive Airport Parkway, the maximum building height shall be defined by the airspace requirements of the Norman Y. Mineta San José International Airport as determined by the Federal Aviation Administration, but shall not ~~to~~ exceed three hundred ten (310) feet in any event; and
  - c. For the portion of North San José bounded by Headquarters Drive, North First Street and Highway 237, the maximum allowable building height is ~~up to~~ two hundred ten (210) feet; and
  - d. For the portion of North San José within the area bounded by Keoncrest Avenue, Sonora Avenue, Route 9787 and Interstate 880, the maximum allowable building height is ~~up to~~ thirty-five (35) feet; and
  - e. For the portion of North San José within the area not otherwise regulated by provisions in Sections 20.85.020.C.1.a., b., c., or d., or by provisions in Section 20.85.020.D, or by provisions in Section 20.85.020.E, the maximum allowable building height is ~~up to~~ one hundred twenty (120) feet.
2. For the portion of the Old Edenvale area bounded by Great Oaks Boulevard, Highway 85, Miyuki Drive and Santa Teresa Boulevard, the maximum building height shall be defined by the airspace requirements of the Norman Y. Mineta San José International Airport as determined by the

Federal Aviation Administration, but shall not exceed ~~to~~ two hundred fifty (250) feet in any event.

3. For properties in the portion of the Old Edenvale area bounded by Monterey Highway, Highway 85 and Cottle Road, the maximum building height is 120 feet.
  4. For other properties located within the New Edenvale area bounded by Silicon Valley Boulevard, Piercey Road, Hellyer Avenue, the Coyote Creek Trail, Silver Creek Valley Road, and Highway 101, maximum allowable building height is ~~up to~~ one hundred twenty (120) feet.
  5. In the portion of Coyote Planning Area designated as Industrial Park on the General Plan Land Use / Transportation Diagram, the maximum allowable building height is ~~up to~~ one hundred thirty five (135) feet.
  6. For those properties within the City of San José bounded by Coleman Avenue, Interstate 880 and the Union Pacific Railroad line, the maximum building height shall be defined by the airspace requirements of the Norman Y. Mineta San José International Airport as determined by the Federal Aviation Administration.
- D. **Transit Areas:** For properties wholly or partially located within a radius of two thousand (2,000) feet of an existing or planned passenger rail station along the Guadalupe Light Rail Corridor north of Montague Expressway, the maximum building height shall not exceed two hundred (200) feet. For properties wholly or partially located within a radius of two thousand (2,000) feet of an existing or planned passenger rail station along the Guadalupe Light Rail Corridor north of Downtown and south of Montague Expressway, or along the planned BART corridor (as shown on the General Plan Land Use / Transportation Diagram), the maximum building height shall not exceed one hundred fifty (150) feet. For properties located wholly or partially within a radius of two thousand (2,000) feet of other existing or planned passenger rail stations (as shown on the General Plan Land Use / Transportation Diagram), the maximum allowable building height ~~is up to shall not exceed~~ one hundred twenty (120) feet.
- E. **Urban Village Areas:** For properties identified on the General Plan Land Use / Transportation Diagram as being located wholly or partially within an Urban Village Area Boundary, and which have an Urban Village, Neighborhood Community Commercial, Regional Commercial or Public Quasi/Public Plan Land Use / Transportation Diagram designation, the maximum building height shall not exceed one hundred twenty (120) feet on the property, or portion thereof, located

within the Urban Village Area Boundary. Notwithstanding the general height restriction applicable in an Urban Village Area Boundary, the allowable building height within the following specifically-identified Urban Village sub-areas shall be as follows:

1. North First Street Urban Village: For the portion of the North First Street Urban Village bounded by Jackson Street, Hobson Street and East Hedding Street, the ~~maximum allowable~~ building height shall be defined by the airspace requirements of the Norman Y. Mineta San José International Airport as determined by the Federal Aviation Administration, but shall not exceed is up to two hundred (200) feet in any event.
2. Rincon South Urban Village: For the Urban Village area bounded by Old Bayshore Highway, North First Street, Skyport Drive, Technology Drive and Airport Parkway, the maximum building height ~~limit~~ shall be defined by the airspace requirements of the Norman Y. Mineta San José International Airport as determined by the Federal Aviation Administration, but not to exceed ~~two hundred twenty feet~~ two hundred (200) feet in any event, except that on the southeasterly corner of Airport Parkway and Old Bayshore Highway, the maximum building height limit shall be defined by the airspace requirements of the Norman Y. Mineta San José International Airport as determined by the Federal Aviation Administration, but shall not exceed two hundred twenty (220) feet in any event.

**SECTION 7.** Section 20.85.030 of Chapter 20.85 of Title 20 of the San José Municipal Code is hereby amended to read in its entirety as follows:

#### **20.85.030 Specific Use Height Restrictions**

Subject to the provisions of Section 20.85.010.C., the following uses shall be subject to the following specific height restrictions when such uses are located in an area subject to this Chapter as referenced in Sections 20.30.200, 20.40.200 and 20.50.200. In instances where multiple specific height restrictions would apply to a use described in this Section 20.85.030, other than uses located within an airport influence area, the more permissive applicable regulation shall govern. For uses located within an airport influence area, the most restrictive applicable regulations shall govern.

- A. **Communication Towers and Other Structures:** For communication towers, antennae and monopoles and other similar non-building structural uses, including structures on top of buildings, such as energy-saving devices, bell towers,

wireless communication antennae, and associated structures, specific height limits may be established in the context of development project review provided, however, that the maximum allowable height is ~~up to~~ one hundred (100) feet on sites with non-residential or non-urban land use designations, and up to one hundred sixty (160) feet on sites with an existing PG&E substation or high tension line corridor exceeding two hundred (200) KV, or the maximum allowable building height for the subject property established elsewhere within Title 20, whichever is greater, if all the following criteria are met:

1. The site, structure, and related use are located to minimize public visibility;
2. The project provides visual amenities, such as landscaping, to address and offset the visual impacts associated with the project use and related structures; and
3. The decision-maker reasonably determines that there is substantial evidence that technical necessity requires greater height, and, in the case of cellular facilities, the increased height will result in a reduction in the number of existing or future freestanding monopoles.

B. **Single Room Occupancy:** For Single Room Occupancy buildings, wholly used as such or combined with commercial uses, the maximum allowable building height is ~~up to~~ sixty (60) feet.

**PASSED FOR PUBLICATION** of title this            day of            2012 by the following vote:

AYES:

NOES:

ABSENT:

DISQUALIFIED:

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CHUCK REED  
Mayor

ATTEST:

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DENNIS D. HAWKINS, CMC  
City Clerk